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November 26, 2019

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Mr. Umansky:

We are writing, for the record, about what you have described as your intention, together with the *Portland Monthly*, to publish allegations that, between ten and sixteen years ago, Ambassador Sondland engaged in unwanted touching of three women. Ambassador Sondland has reviewed the allegations contained in your November 23, 2019 email and categorically denies them.

But wholly apart from the substance of the allegations, which are false and defamatory, there is much that is profoundly troubling about your reporting and your intention to publish these allegations at this time.

At the outset, you should know that Ambassador Sondland is only a "limited purpose public figure" under well-accepted defamation standards. Your proposed, soon-to-be published set of false and defamatory allegations do not address either the more recent time period or the subject matters for which Ambassador Sondland could be considered a public figure. Since all of the dated allegations you intend to publish address his private life, you will not be able to claim that the "actual malice" standard applies. Should you proceed to publish, there will likely be eight-to-nine figures in damages suffered by Ambassador Sondland and his companies. And a court of law will evaluate your reporting – and *Portland Monthly's* reporting – under a much less deferential negligence standard.

The timing of your reporting gives the unmistakable appearance that you and the *Portland Monthly* are seeking, for publicity and financial gain, to exploit Ambassador Sondland's willingness to testify before the House Permanent Committee on Intelligence. This is a shameful attempt to exploit what is going on in Washington, D.C. Indeed, given the timing of your intended story, a reasonable conclusion to be drawn is that you are attempting to affect Ambassador Sondland's credibility as a fact witness in the pending impeachment inquiry. Given the politically charged climate in which current events are unfolding, some might consider this to be veiled witness tampering.



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As you are doubtless aware, one of the three complainants, Nicole Vogel, is the owner and publisher of the *Portland Monthly*. She and her publication stand to benefit directly from publishing these allegations, and Ms. Vogel's delay in bringing these forward – even as Ambassador Sondland was undergoing public scrutiny by Congress as part of his confirmation in 2018 – casts grave doubt on her credibility. Indeed, we understand that *Portland Monthly* is under significant financial pressure and Ms. Vogel's efforts seem designed to salvage it.

Simply put: Trying to weaponize the Me-Too movement and savage witnesses who have testified publicly in the impeachment process is appalling. It demeans legitimate efforts to address sexual harassment and contributes to the degradation of our political culture. While it is plain to see why the *Portland Monthly* has associated itself with this effort, it is unworthy of ProPublica. You should carefully consider with whom you have partnered, when, and why, and you and your ProPublica colleagues should ask yourselves whether this gratuitous attack on Ambassador Sondland is worthy.

Your good faith is also called into question by your refusal to give us more than 48 hours to respond to these allegations – which you first brought to our attention late Saturday night – after repeatedly refusing our earlier requests to learn the nature of any allegations you might be investigating. Your too-glib response is that Ambassador Sondland merely has to answer the accounts of your three complainants.

But, as you well know, it is one thing to bring an allegation and quite another to disprove it. Proving one's innocence is a complicated exercise, which will necessarily require review of calendars, emails, and business records, all of which may produce important evidence corroborating Ambassador Sondland's recollection and casting doubt on the allegations against him. Your refusal to permit Ambassador Sondland adequate time to respond, even after having spent many weeks trolling unsuccessfully for allegations of harassment in his business, calls your good faith, your fair-mindedness, and your reporting methods into question. Indeed, we understand that at least several dozen former Provenance employees have been solicited by your reporters seeking to disparage Ambassador Sondland. A court will not look kindly on your unethical reporting methods.

Given the short time available to us, we have the following responses:

First, why have any of these individuals failed to come forward before? As you well know, just one year ago Ambassador Sondland went through an exhaustive and very public confirmation process that was intended to measure his fitness to serve as U.S. Ambassador to the European Union. Surely, if these individuals felt that they had been mistreated by Ambassador Sondland and that his conduct was sufficiently egregious that they are now

prepared to talk about it publicly, his 2018 Senate confirmation hearing – widely covered by the media in Portland – would have been an appropriate occasion to come forward. Their failure to do so calls into question their credibility and underscores our belief that the timing of this story is as cynical as it is opportunistic.

Second, your characterization of Ambassador Sondland's interactions with Ms. Vogel around the proposed investment in *Portland Monthly* is wildly distorted. Presenting someone with an investment opportunity doesn't transform Ms. Vogel into someone vulnerable to "power and intimidation," as you luridly describe. It's a business transaction in which buyer or seller either agree or forego. A decision not to invest cannot fairly be characterized as retaliation. Ambassador Sondland, in fact, conducted lengthy due diligence about Ms. Vogel's investment proposal that included enlisting analyses from other regional publishers, before deciding not to invest. Those efforts, all of which can be corroborated (although not in 48 hours) would, of course, have been unnecessary and pointlessly expensive if his actual motive, as you wrongly allege, was personal and vindictive.

Third, in addition to substantiating their allegations, you should carefully inquire into the political associations of the complainants and ask whether the substance and timing of their allegations are motivated by political animus. Each is addressed below:

- In 2003, Ms. Vogel did seek an investment from Ambassador Sondland in her magazine concept, and Ambassador Sondland declined to invest. This contemplated investment was discussed at a dinner meeting in Portland, along with a lunch in Vancouver, Washington. Ambassador Sondland denies any unwanted touching, and he specifically denies trying to kiss her or placing his hand on her thigh. You should know that Ms. Vogel is a close associate of Rep. Earl Blumenauer who has maligned Ambassador Sondland and threatened his company, misconduct that is now the subject of a Congressional Ethics Office complaint. Congressman Blumenauer is also a vocal critic of the Trump Administration.
- In 2010, Ms. Sept sought a job at the Oregon Governor's Office of Film & Television, and Ambassador Sondland served as the board chair at the time. Ambassador Sondland did discuss Ms. Sept's job prospects with her, but he denies any unwanted touching. He specifically denies attempting to kiss her, along with her claim that she pushed him away. You should know that Ms. Sept has been active in party politics and, indeed, has been a political aide to Rep. Suzanne Bonamici, who is also a strident critic of the Trump Administration.
- In 2003, Ms. Solis (known at the time as Schnabel) pitched Ambassador Sondland over lunch for insurance brokerage work. As

far as we can determine from Provenance's records, Ms. Solis's employer did not become Provenance's insurance broker of record until 2008. So Ms. Solis's 2003 pitch must have been unsuccessful. (Provenance's records also show that, in 2016, Ms. Solis's then-current employer made an unsuccessful pitch for Provenance's insurance brokerage business.) Ambassador Sondland denies slapping Ms. Solis on the rear end after her 2003 insurance pitch. Ambassador Sondland also denies exposing himself to her or forcibly kissing her. We have been able to review Provenance's records interacting with Ms. Solis's company, and at no time did she or her employer convey any concern about Ambassador Sondland, his comportment, or the nature of any business dealings he had with them or their personnel.

* * * * *

Notably, what each of these three women share in common is that they pursued Ambassador Sondland for financial and personal gain – an investment, a job, and insurance brokerage work – and he declined their proposals.

We also know that, after partnering with Ms. Vogel and her publication, your reporters spent weeks contacting dozens of current and former Provenance employees, telling them they knew of unspecified harassment claims about Ambassador Sondland, and soliciting similar accounts. So far as we are able to learn, none of them substantiated these false accounts. Instead, the current and former Provenance employees described a healthy culture at Provenance, where sexual harassment was not tolerated, and where employees felt empowered to raise any concerns. How many people were called, why did you prompt them with innuendo, and if those sources were in fact supportive of the Ambassador (as we know for certain that many of them were) then will those be included? You have so far refused any explanation, and we are asking you those specifics again. For a news organization that often touts its "accountability journalism," you seem to prefer stonewalling when you are asked to deliver on your promises.

In sum, the allegations – both their timing and their substance – are shocking and unfair, burdened by glaring conflicts of interest, and dubious on their face. The responsible path would be for ProPublica to disassociate itself with *Portland Monthly*, ask the hard questions of your witnesses that you have apparently failed to raise, and give Ambassador Sondland a fair opportunity to respond. Finally, you should ask yourself whether your single-minded pursuit of Ambassador Sondland is a worthy exercise of journalistic independence or, instead, a depressing example of what is wrong with our political culture.



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Here, also for the record, is a statement from Ambassador Sondland:

"In decades of my career in business and civic affairs, my conduct can be affirmed by hundreds of employees and colleagues with whom I have worked in countless circumstances. These untrue claims of unwanted touching and kissing are concocted and, I believe, coordinated for political purposes. They have no basis in fact, and I categorically deny them. There has never been mention of them in any form during the 10 to 16 years since they supposedly occurred, although such a complaint could easily have been aired through multiple channels. These false incidents are at odds with my character. It is distressing that this underhanded journalism was initiated by a source angry that I long ago declined to invest in her magazine, the same magazine now presenting its owner's outlandish claims as if the reporting is somehow objective."

Sensitive issues like sexual harassment and workplace dynamics deserve to be treated with the highest standards of objectivity and accuracy. We hope you choose the ethically correct course of action and decline to publish these unfounded and untrue allegations.

Sincerely,

A handwritten signature in blue ink that reads "James T. McDermott". The signature is fluid and cursive, with the first name "James" being particularly prominent.

James T. McDermott

cc: Richard Tofel, ProPublica (by e-mail: dick.tofel@propublica.org)
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Ambassador Gordon Sondland